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Constitutional Law

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II. Adoption and Amendment of Constitutions

C. Amendment of State Constitutions

2. Method of Amendment of State Constitutions

b. Amendment of State Constitutions by Constitutional Conventions; Call

§ 27. Qualifications and election of delegates to state constitutional convention in regard to amendment of state constitutions

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West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 535, 536

The qualifications for delegates to a state constitutional convention are set out in some state constitutions or statutes. Where the constitution is silent on the matter, the legislature, having plenary power to call a constitutional convention, has the power to prescribe the qualifications for candidates¹ and the manner of electing delegates.² The offices of state senator and representative are not incompatible with membership in a constitutional convention unless made incompatible by some provision under the state's constitution.³

There is authority that the "one person-one vote" or "equal representation for equal numbers of persons" principle is applicable to the election of members to a constitutional convention.⁴ However, there is also contrary authority, based on the view that the only authority of the members of the convention is to propose amendments to be submitted to a vote of the people of the state.⁵ The legislature need not provide for partisan participation or the use of political party designation in the election of delegates even though statutory law provides for both with respect to the election of state legislators.⁶

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Footnotes

- 1 Livingston v. Ogilvie, 43 Ill. 2d 9, 250 N.E.2d 138 (1969).
- 2 City of Bessemer v. Birmingham Elec. Co., 252 Ala. 171, 40 So. 2d 193 (1949).
- 3 Livingston v. Ogilvie, 43 Ill. 2d 9, 250 N.E.2d 138 (1969).
- 4 Forty-Second Legislative Assembly v. Lennon, 156 Mont. 416, 481 P.2d 330 (1971).
- 5 Priest v. Polk, 322 Ark. 673, 912 S.W.2d 902 (1995); Livingston v. Ogilvie, 43 Ill. 2d 9, 250 N.E.2d 138 (1969).
- 6 Livingston v. Ogilvie, 43 Ill. 2d 9, 250 N.E.2d 138 (1969); Opinion of The Justices, 113 N.H. 149, 304 A.2d 86 (1973).

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